

Article - Estates and Trusts

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§14.5–306.

(a) A settlor may:

(1) Designate one or more persons who may serve as a representative or successor representative of a beneficiary of the trust;

(2) Designate one or more other persons who may designate a representative or successor representative of a beneficiary of the trust; and

(3) Specify the order of priority among two or more persons who are authorized under this title to serve as a representative or successor representative of a beneficiary of the trust.

(b) Notwithstanding subsection (a) of this section, except as provided in § 14.5–303 of this subtitle, a person designated under subsection (a) of this section may not serve as a representative of a beneficiary of a trust if the person serves as a trustee of the same trust.

(c) (1) A representative designated under subsection (a) of this section may be held liable to the beneficiary on whose behalf the representative acts only if:

(i) The representative has undertaken or agreed to represent the beneficiary; and

(ii) Subject to paragraph (2) of this subsection, the representative's action or failure to act is proven by clear and convincing evidence to have been in bad faith with respect to the beneficiary.

(2) For purposes of determining liability under paragraph (1)(ii) of this subsection, a representative acts, or fails to act, in bad faith only if:

(i) The action or inaction was the result of intentional wrongdoing by the representative; or

(ii) The representative acted, or failed to act, with reckless indifference to the purposes of the trust or the interests of the beneficiary on whose behalf the representative acted.

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